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6

7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 SALLIE SHANNON CHAPMAN,
individually and on behalf of all others
10 similarly situated,

11 Plaintiff,

12 vs.

13 FERTITTA ENTERTAINMENT, INC.,
FERTITTA ENTERTAINMENT
14 HOLDINGS, LLC, FERTITTA
HOSPITALITY, LLC, LANDRY'S INC.,
15 GOLDEN NUGGET INC. dba GOLDEN
NUGGET LAS VEGAS,

16 Defendants.

Case No.:

**PLAINTIFF'S COMPLAINT AGAINST
DEFENDANTS**

[JURY TRIAL DEMANDED]

17 Plaintiff, Sallie S. Chapman (hereinafter referred to as "Plaintiff"), by and through her
18 undersigned counsel, and for her Complaint against Fertitta Entertainment, Inc., Fertitta
19 Entertainment Holdings, LLC, Fertitta Hospitality, LLC, Landry's Inc., and Golden Nugget Inc.
20 dba Golden Nugget Las Vegas (hereinafter referred to as ("Defendant companies")), hereby
21 alleges and complains as follows:

22 //

23 //

24

INTRODUCTION

1
2 1. That at all times relevant herein, Plaintiff has been a resident of the State of
3 Nevada.

4 2. Plaintiff brings this collective action pursuant to the Fair Labor Standards Act
5 (hereinafter referred to as “FLSA”) on her own behalf and on behalf of similarly situated
6 employees of Defendant companies.

7 3. That at all times relevant herein, on information and belief, Defendant companies
8 either individual or through respective subsidiary or affiliates own and operate casino properties
9 including the Golden Nugget Las Vegas.

10 4. That at all times relevant herein, Defendant companies have conducted business
11 in the State of Nevada.

12 5. Plaintiff and all similarly situated employees held “casino host” positions, which
13 Defendant companies misclassified as exempt, and were not compensated for work in excess of
14 forty (40) hours a week.

JURISDICTION AND VENUE

15
16 6. This Court has jurisdiction of Plaintiff’s claims pursuant to 28 U.S.C. §1331
17 because the allegations contained herein pertain primarily to violations of federal statutes.

18 7. This Court has jurisdiction over Plaintiff’s state law claims pursuant to 28 U.S.C.
19 §1367 as any state law claim is related to the other claims in this action over which the Court has
20 original jurisdiction.

21 8. Venue is proper pursuant to 28 U.S.C. §1391 because Defendant companies
22 transact business in this district either directly or through a wholly owned subsidiaries or
23
24

1 affiliates. Plaintiff was employed by Defendant companies in this district and a substantial
2 portion, if not all events giving rise to the claims asserted herein occurred in this district.

3 **PARTIES**

4 9. Plaintiff Sallie S. Chapman is a resident of the State of Nevada who was
5 employed by Defendant companies as a casino host from May 1991¹ through December 2014.

6 10. Plaintiff consistently worked in excess of forty (40) hours weekly for Defendant
7 companies but did not receive overtime compensation and was misclassified as exempt.

8 11. The class of employees similarly situated to Plaintiff (hereinafter referred to as
9 “the Class”) includes those persons employed by Defendant companies as casino hosts from or
10 after December 2011 who worked in excess of forty (40) hours weekly but did not receive
11 overtime compensation.

12 12. Defendant companies are employers within the definitions of the federal laws
13 upon which Plaintiff’s claims are based.

14 **FACTS**

15 13. From 1991 to 2014 Plaintiff was employed as a casino host at the Golden Nugget
16 Las Vegas, a casino property owned by Defendant companies.

17 14. While Plaintiff was so employed, the job duties of a casino host included
18 telemarketing, entering data into the computer system, making reservations and customer
19 service.

20 15. Customer service included the provision of a wide variety of services including
21 constant availability to casino guests either while on property or via a company issued cell
22 phone.

23 ¹ Plaintiff was assigned to the Golden Nugget Las Vegas which was owned by entities other than
24 Defendant companies during portions of Plaintiff’s employment.

1 16. Defendant companies paid Plaintiff a base salary of approximately \$52,000
2 annually. Plaintiff was also paid a quarterly production bonus. Plaintiff did not earn more than
3 \$60,000 annually.

4 17. The Golden Nugget Las Vegas operated twenty-four hours a day, seven days a
5 week. Throughout Plaintiff's employment, Defendants regularly required Plaintiff to work in
6 excess of forty (40) hours per week at the Casino and required casino hosts to be on call even
7 when not scheduled to be present at the casino.

8 18. Defendants expected Plaintiff to accept calls from casino guests on her company
9 issued cell phone and to provide service to those guests on days when she was not at the casino.

10 19. Plaintiff typically received calls and performed work during days she was not at
11 the casino.

12 20. Plaintiff did not receive overtime pay. Defendant companies misclassified
13 Plaintiff's "casino host" position as exempt from overtime requirements of the FLSA, even
14 though the job duties of that position did not meet the requirements of any statutory exemption.

15 21. On information and belief, in addition to the Golden Nugget Las Vegas,
16 Defendant companies own other casinos in Nevada and nationwide including locations in
17 Atlantic City and Biloxi.

18 22. On information and belief, Defendant companies employ casino hosts in each of
19 these locations who perform job duties identical to those as assigned to Plaintiff.

20 23. Upon information and belief, there are approximately ten to fifteen (10-15) casino
21 hosts at the Golden Nugget Las Vegas location and similar amounts at other properties.
22 Defendant companies has likewise misclassified these casino hosts positions and there are past,
23 current and future employees in these positions nationwide similarly situated to Plaintiff.

24

FIRST CAUSE OF ACTION
(Collective Action For Overtime Pay-Fair Labor Standards Act)

24. Plaintiff incorporates by reference paragraphs 1-24 as though fully set forth herein.

25. Pursuant to 29 U.S.C. §216(b), Plaintiff brings this action on behalf of herself and a class of persons employed by Defendant companies on or after September 2012 who work or worked as casino hosts in excess of forty (40) hours weekly but did not receive overtime compensation (hereinafter referred to as the “Class”).

26. Plaintiff is similarly situated to the Class in terms of job responsibilities, title and unpaid overtime claims.

27. Defendant companies practice and policy of misclassification applies to Plaintiff and members of the Class.

28. By failing to pay overtime wages to Plaintiff and the Class, Defendant companies have willfully violated §7 of the FLSA.

29. Plaintiff and the Class are entitled to recover overtime compensation, liquidated damages and attorneys’ fees and costs.

SECOND CAUSE OF ACTION
(Unjust Enrichment – on behalf of Plaintiff only)

30. Plaintiff incorporates by reference paragraphs 1-30 as though fully set forth herein.

31. Defendant companies, in failing to pay overtime wages due and owing to Plaintiff, have unjustly retained money or property belonging to Plaintiff contrary to the fundamental principles of justice or equity and good conscience.

1 32. Plaintiff conferred the benefit of performing her work duties on Defendant
2 companies who accepted and retained those benefits without payment.

3 33. As a direct and proximate result Defendants' conduct, Plaintiff has been injured
4 and has suffered damages in excess of \$10,000.00.

5 34. Plaintiff has been forced to hire legal counsel in this matter and thus should
6 recoup her attorney's fees and costs.

7 **THIRD CAUSE OF ACTION**
8 **(Conversion- on behalf of Plaintiff only)**

9 35. Plaintiff incorporates by reference paragraphs 1-35 as though fully set forth
10 herein.

11 36. Defendant companies deliberately and wrongfully exerted dominion over property
12 belonging to Plaintiff.

13 37. Specifically Defendants retained and failed to pay overtime wages to Plaintiff.

14 38. Defendants had no rights, claim or title to Plaintiff's overtime wages and the
15 failure to pay such wages is therefore inconsistent with Defendants' alleged title or right to
16 Plaintiff's overtime wages.

17 39. As a direct and proximate result Defendants companies willful, grossly negligent
18 and/or fraudulent conduct, Plaintiff has been injured and has suffered damages in excess of
19 \$10,000.00, including punitive damages.

20 40. Plaintiff has been forced to hire legal counsel in this matter and thus should
21 recoup her attorney's fees and costs.

22 WHEREFORE, Plaintiff prays for judgment in her favor against Defendant companies
23 as follows:
24

On behalf of Plaintiff individually and the Class:

- (1) Unpaid overtime wages;
- (2) Liquidated damages;
- (3) Injunctive/Declaratory relief;
- (4) Interest calculated at the prevailing rate;
- (5) Attorney's fees and costs of suit incurred herein; and
- (6) For such other and further relief as the Court deems just and proper.

On behalf of Plaintiff individually:

- (1) For general damages;
- (2) For special damages;
- (3) For wages, salary, employment benefits and other compensation denied or lost;
- (4) For interest calculated at the prevailing rate;
- (5) For exemplary damages if appropriate;
- (6) Punitive damages for claims where such damages are allowed;
- (7) Attorney's fees and cost of suit incurred herein;
- (8) For such other and further relief as the Court deems just and proper.

DATED this 28th day of September 2015.

NELSON LAW

/s/ Sharon L. Nelson

SHARON L. NELSON

Nevada Bar No. 6433

8430 W. Lake Mead Blvd, Suite 100

Las Vegas, Nevada 89128

Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff, by and through undersigned counsel, hereby demands trial by jury in the above captioned matter.

DATED this 28th day of September 2015.

NELSON LAW

/s/ Sharon L. Nelson

SHARON L. NELSON

Nevada Bar No. 6433

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Las Vegas, Nevada 89128

Attorneys for Plaintiff

SALLIE SHANNON CHAPMAN